

strap manipulatable from the outside of the patient's lips for making adjustments while in place.

Furthermore, even in those instances in which the adjustment might be made while Applicant's appliance is out of the patient's mouth, it is of course much simpler to make and obviously easier to manipulate than the appliance of the '945 patent. As noted in column 6 of the '945 patent, the prior appliance is "custom fitted" to the requirements of each individual patient, so that molds of the patient's teeth must be taken to enable casting of its "bite blocks", thus increasing the cost of installation.

In comparison, Applicant's tray need not be "custom" made, but instead uses bite trays to fit teeth of a large number of patients, the close fitting to the teeth being accomplished by the application of impression material having unique qualities which enables it to adhere to the tray troughs while permitting easy removal of the appliance from the teeth. Since the trays receive the impression material, they obviously need not be "custom" fitted in the manner described in the '954 patent. Furthermore, whether or not the "inner lower channel" of each tray might be construed as a "trough", neither is made to receive impression material, as claimed.

The bite blocks of '945 are not intended to provide any flexibility in the adjustment or "connection means" 40, and the "elastomeric" material merely facilitates shaping of the bite box to the patient's teeth during custom fitting.

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In this regard, the Examiner's further comment that the elastomeric material of the bite blocks "allows impressions to be made" is not understood. As above noted, the impressions are instead made in the manner described in column 6 of the '945 patent.

The upper and lower members 12 and 16 of the appliance of the Fenton '633 patent are described as "fixably attached" in the embodiment of Figs. 1-3. Although "adjustably" connected in the embodiment of Figs. 4-7, such adjustment can only be made when the upper and lower members 12 and 13 are removed from the mouth of the patient. Furthermore, even when the device is installed after adjustment, it is not releasable or adjustable by a pull strap or other means to the front of the patient's lips.

In referring to the "securing means" of Fenton, the Examiner apparently has reference to the "additional moldable material" 24, referred to in column of the '633 patent. However, that material is not for the purpose of adhering to the teeth, but rather fitting them tightly. Thus, the use of such material in the '945 patent is obviously suggested only in the light of Applicant's disclosure since the device of the '945 patent is custom fitted and presumably would not require the moldable material which is used in the '633 patent.

The Examiner has apparently misinterpreted the Tomasi '960 patent, or at least those aspects of the '960 patent which might be considered relevant to Applicant's claimed invention because the "holder" 100 is used only upon

fitting the upper and lower mouth pieces to the patient's teeth when the mouthpieces are longitudinally offset a desired distance with respect to one another. (See Fig. 23). In this manner, when the mouthpiece portions are removed from the holder and placed side by side (see Fig. 25), the resulting impressions are offset. They are then placed in a suitable "specialized heating unit", so that they may be disposed in the patient's mouth to permit the "soft and pliable plastic" material to conform to the teeth. When the "fit" is accomplished, the upper and lower portions are removed from the holder (see column 6), following which the holder may be discarded. More particularly, the mouthpiece portions are assembled by interfitting pins and holes so as to be disposable in side by side relation, as shown in Figs. 24 and 25, whereby, upon installation in the patient's mouth, the lower mouth piece will force the lower jaw forwardly with respect to the upper jaw.

This, of course, has nothing to do with the Applicant's use of a connecting means which is a part of the oral appliance when the latter is installed in the patient's mouth, and which then is manipulatable in a manner to pull the lower tray and thus the lower jaw forwardly with respect to the upper teeth. As shown in the drawings, this is preferably accomplished by means of a "pull strap" of such a length that the outer end, whether a ring or otherwise, is accessible to the party making the adjustment.

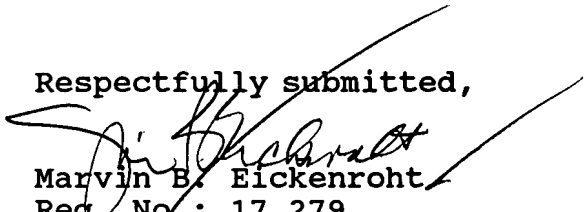
Under these circumstances, what would motivate one skilled in the art to "substitute" the holder 100 of Tomasi

for the connection means of Halstrom '945? If anything, this would merely suggest the use of such a holder in fitting of the parts 28 and 32. Since the holder 100 is not used when the appliance is installed, much less used to make the necessary adjustments upon installation, any modification for '945 in view of Tomasi would be of no relevance to the claimed subject matter of this invention.

In summary, none of the cited references relied upon by the Examiner in rejecting the prior claims, whether viewed singly or in combination, remotely suggest an oral appliance, of claim 26, less claims dependent therein, or the preferred methods of using same, as set forth in claims 39 and 40, in which the lower jaw (1) may be moved to and held in adjusted forward positions with respect to the upper teeth and (2) then released to permit removal of the appliance by means which may be manipulated when the appliance is in place on the patient's teeth, and from an easily accessible position outwardly of the patient's lips. In addition, the prior art is totally lacking in suggesting an appliance of the simplified construction of Applicant's invention which merely requires the manipulation of a "pull strap" accessible outwardly to the patient's lips (claim 39), or, for that matter, in some applications, when the appliance is removed from the patient's mouth prior to being installed therein (claim 40). The holder 100 of Tomasi is used for a totally different purpose and thus is not suggestive of any modification of '095 or '633, viewed singly or in combination, which would anticipate Applicant's invention.

It is believed that no fee is due, however, if the Office believes that a fee should be paid, please charge same to Deposit Account No. 22-0020 (FRAD,003).

Respectfully submitted,


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